

[NOT FOR PUBLICATION—NOT TO BE CITED AS PRECEDENT]

# United States Court of Appeals For the First Circuit

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No. 01-2003

JULIE INTRAVAIA STOKES,

Plaintiff, Appellant,

v.

STANLEY R. MERSON and  
CENTER FOR MENTAL HEALTH AND  
RETARDATION SERVICES, INC.

Defendants, Appellees.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Nancy Gertner, U.S. District Judge]

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Before

Boudin, Chief Judge,  
Torruella and Lipez, Circuit Judges.

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Julie Intravaia Stokes on brief pro se.  
Rebecca J. Wilson, Sandra P. Criss and Peabody & Arnold LLP,  
on brief for appellee Stanley R. Merson.  
Jocelyn M. Sedney, BBO and Brody, Hardoon, Perkins & Kesten on  
brief for appellee Center for Mental Health and Retardation  
Services, Inc.

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June 20, 2002

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**Per Curiam.** The district court dismissed this case for a lack of prosecution and a failure to comply with the court's discovery orders. Almost a year later, plaintiff moved for relief from the judgment under Fed. R. Civ. P. 60(b)(1) and/or 60(b)(6), alleging that she had been impeded from prosecuting her case and complying with discovery orders by an episode of mental illness. The district court denied relief from the judgment in an endorsed order and plaintiff appeals this denial of her Rule 60(b) motion.

The summary denial of relief under Rule 60(b) was not an abuse of discretion. Plaintiff's unsupported allegation that she suffered from mental illness was insufficient to excuse the neglect of her lawsuit under Rule 60(b)(1), especially since she was represented by counsel throughout the proceedings below. There was no showing that plaintiff was incapable of cooperating with her attorney, who also filed the Rule 60(b) motion on her behalf, and no showing that the attorney was in any way disabled. Rule 60(b)(6) is not an alternative path for pursuing relief based on "excusable neglect" and, anyway, plaintiff has not shown that she was "faultless in the delay" as would be required for any relief under Rule 60(b)(6). See Davila-Alvarez v. Escuela de Medicina Universidad Central Del Caribe, 257 F.3d 58, 63 (1st Cir. 2001).

**Affirmed.**